

CITY OF CERRITOS
AND
AFSCME LOCAL 619
(Case No. LA-IM-225-M)

FINDINGS OF FACT AND
RECOMMENDED TERMS OF SETTLEMENT

January 23, 2017

FACTFINDING PANEL

Impartial Chairperson	David G. Miller
Union Representative	Steve Koffroth
Employer Representative	John F. Hoffman

REPRESENTATIVES

For the Employer	Charles H. Goldstein The Goldstein Law Firm
For the Union	Gary Guthman AFSCME Union Representative

<u>HEARING DATE:</u>	December 6 and 7, 2016 Cerritos, California
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BACKGROUND

The parties to the impasse and, therefore, this procedure are the City of Cerritos ("City" or "Employer") and AFSCME Local 619 ("Union"). The Union represents two City bargaining units: a unit of Part-Time Temporary employees and a unit of Full-Time employees. Both units consist of miscellaneous non-safety classifications with some overlap of classification titles. This procedure involves only the Part-Time Temporary

bargaining unit. The parties did not present any background stipulations but I propose that the following facts are true:

1. The City is a public agency within the meaning of Government Code section 3501, subdivision (c) of the Meyers-Milias-Brown Act.
Cerritos has a population of about 49,000 and is located within Los Angeles County.
2. The Union is a recognized employee organization within the meaning of Government Code section 3501, subdivision (b) of the Meyers-Milias-Brown Act and has been formally acknowledged by the City as the exclusive bargaining representative for employees in the Part-Time Temporary bargaining unit. The Union is also the recognized exclusive representative of the "full-time, non-exempt" bargaining unit; the two bargaining units negotiate separate Memoranda of Understanding.
3. It is the chairman's opinion that the only issues in dispute before the Factfinding Panel are the following: The amount and effective date for a one-time bonus payment in lieu of a second year across the board increase.
4. Pursuant to Government Code section 3505.4, subdivision (d), the panel is required to consider, weigh and be guided by all the following:
 - (1) State and federal laws that are applicable to the employer;
 - (2) Local rules regulations, or ordinances;
 - (3) Stipulations of the parties;
 - (4) The interests and welfare of the public and the financial ability of the public agency;

- (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies;
- (6) The Consumer Price Index for goods and services, commonly known as the cost of living;
- (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received; and
- (8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

ISSUES

The chairman believes that the only issues subject to this report are the amount and the effective date of a one-time off schedule bonus to be paid in lieu of a second year across the board wage increase.

The parties' past or current proposals or positions on other items introduced to this proceeding reveal no major differences particularly if overall resolution and settlement are achieved. Those items are

1. An agreement through June 30, 2018;
2. An across the board wage increase of three (3%) percent effective July 1, 2016;
3. The City will provide one jacket a year for up to 20 eligible stage crew employees without substituting uniforms. The eligible employees will be determined by a management supervisor. The monetary value of the uniforms will be at least \$500 per year per employee; the amount may be adjusted upward if the actual cost of the uniforms increases;
4. The City will provide up to 20 eligible stage crew employees of the CCPA (Cerritos Center for Performing Arts) with \$300 toward the purchase of safety shoes, without substituting uniforms. The eligible employees will be determined by a management supervisor; and
5. Eligible unit members shall accrue sick leave and be granted sick leave and kin care pursuant to applicable state law.

The Panel recommends that the above items be included in a successor Memorandum of Understanding.

The Remaining Issues:

UNION PROPOSAL: All part-time employees who have worked for the City 800 hours or more the preceding fiscal year shall receive a bonus of \$350 on February 1, 2017.¹

¹ The Union originally proposed the payment for December 2016; the modification to February occurred at the chairman's request; since it's a one-time payment, the December request is now moot.

CITY PROPOSAL (contingent on a two year agreement): Effective July 1, 2017, the City shall grant a one-time bonus of \$300.00 to currently active part-time employees that have worked 3000 or more hours since hire date.

There is some confusion about the status of the 3000 career hours versus the 800 preceding year hours and which party is proposing which. We will discuss that issue below.

BACKGROUND AND DISCUSSION

The City is currently trying to cope with substantial obstacles to its revenue stream; however, its current financial condition is sound but fiscal prudence is required to plan for and implement for the future.

The City is a no/low tax city concerning property taxes; this means it has consistently levied no or low property taxes and does not receive more than seven (7%) percent of the receipts from such taxes levied within its jurisdiction. Instead of property taxes the City has historically relied primarily upon sales tax revenues and redevelopment funds.

In 2011 the State, through the Budget Act, dissolved all Redevelopment Agencies and reallocated those resources. This represented a severe financial blow to many cities and a potential financial disaster for the City of Cerritos. Additionally sales tax revenues fell dramatically during the recent recession starting with a dramatic drop in 2008-2009. By 2011-2012 sales tax revenues began trending upward and are projected to exceed \$30,000,000 in 2016-17.

Throughout the down period the City made some reductions and let a number of positions remain vacant through attrition. To date, the City has not utilized layoffs to reduce its personnel; part-time employees have received only one cost-of-living increase since 2008.

Notwithstanding the foregoing the City's current financial situation is healthy. The City's budget projects expenditures of \$99.9 million, an amount lower than that for 2008-09; this includes some capital projects. The City anticipates revenues of approximately \$116.1 million; however, \$21.8 million goes to the Cerritos Successor Agency (established to handle Redevelopment projects already under way, dissolution and remaining obligations) and is restricted to reimbursement for enforceable obligations of the Successor Agency. Thus there appears to be a possible deficit between the anticipated \$94.3 million in revenues and \$99.9 million in expenditures; even if that difference is withdrawn from reserves, as will be demonstrated below, the City's current level of reserves can more than adequately fund the one-time proposal submitted by the Union.

The City has quite a generous reserve:

"...it is estimated that the City's General Fund reserve, less loans receivable, will be approximately \$59.8 million. As this amount is unrestricted, it is available for use for any purpose deemed necessary by the City Council. For the upcoming year, our current ratio of General Fund cash reserves to the City's operating expenditures is anticipated to be approximately 59.8%. In current local government practice it is believed that reserve levels of approximately five to 10 percent are typical of most agencies." (City Ex. B, May 2, 2016 letter

from City Manager to Mayor, City Council and Successor Agency).

At the Hearing, Denise Manoogian, former HR Manager and Director of Administrative Services, testified extensively about the City's finances and budget. She retired in 2011 but has returned as Director of Special Projects with emphasis on working through the Redevelopment crisis. She reinforced the negative financial impact from the temporary decline in sales tax and the loss of redevelopment. She testified at some length about the reserves and obligations which will cut into the reserves. However, she confirmed that for our purposes \$43 million was a number we could use for the General Fund reserve. We find that more than adequate to fund the disputed portion of the Union's proposal particularly where, as here, it involves a one-time non-recurring expenditure.

The City estimates the cost difference between a \$300 bonus and a \$350 bonus to be \$18,900 (See City Exhibit A, Tabs 13 and 14), an amount which we find to be insignificant in light of its one time nature and the City's substantial reserves.

The effective date of the one-time bonus remains at issue with AFSCME proposing that it be sometime in the 2016-17 fiscal year—first proposing December 2016 and currently proposing February 1, 2017. The City proposes an effective date of July 1, 2017. Because any agreement would cover two years, and because an across the board increase of 3% is scheduled for 2016-17 there is some logic in deferring the second increment, even though a one-time payment, to the second year of the agreement. Further, I do not find that under the circumstances the Union can make a case for acceleration because its

reluctance to reach agreement, and therefore the passage of time, relate to factors extrinsic to the part time bargaining unit.

The City's offer of May 20, 2016 does not contain the one time payment. In September 2016 the City indicated willingness to agree to pay a \$300 bonus based upon 800 hours worked the preceding year; the Union's August 11 and November 30 proposals were based upon 3000 career hours; Union proposals of December 7 were based upon 800 hours. Because the one-time payment is in lieu of a second year increase in a two-year MOU we believe it is more appropriate to use the 800 hour criteria so that newer employees who work the first year of the MOU have an opportunity to be eligible for the bonus.

In making the below recommendations the Panel finds that for purposes of the proposal at issue the "...financial ability of the public agency" is determinative.

RECOMMENDATION

The parties agree as follows:

"Effective no later than the close of the first payroll period in July 2017 the City shall pay a one-time off schedule bonus of \$350 to unit employees who worked 800 hours or more in the preceding fiscal

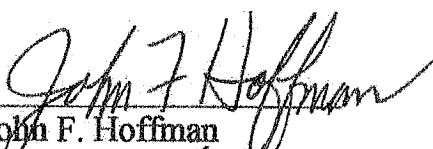
year and who are on the payroll as of July 1, 2017.”

Dated: January 23, 2017

Respectfully Submitted

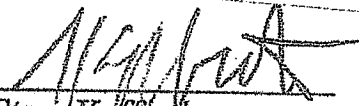
David G. Miller, Chair

Steve Koffroth
Union Representative
Concur (); Dissent ()
Concur in part; dissent in part ()



John F. Hoffman
City Representative
Concur (✓); Dissent ()
Concur in part; dissent in
Part () (SEE ATTACHMENT)

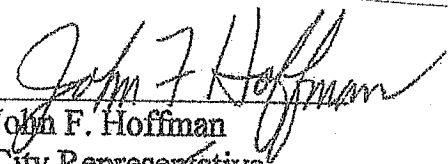
I also concur with the Chairman's Findings of Fact and Recommended Terms of Settlement. However, to clarify the record, the City has referenced a "mediator's proposal". Such a proposal, if it exists, was never presented to the Union.


Steve Koffroth
Union Representative
Concur ☒; Dissent ()
Concur in part; dissent in part ()

John F. Hoffman
City Representative
Concur (); Dissent ()
Concur in part; dissent in
Part ()

I concur with the Chairman's Findings of Fact and Recommended Terms of Settlement. However, to clarify the record, the City's present position on the bonus, was that this was not a formal proposal of the City. The City's position was this was the mediator's proposal at the mediation in September 2016 that did not become a formal proposal of City because the Union would not sign and agree to the mediators proposal. Therefore, the City's present bargaining position is its last, best and final offer of May 20, 2016.

Steve Koffroth
Union Representative
Concur (); Dissent ()
Concur in part; dissent in part ()


John F. Hoffman
City Representative
Concur (☒); Dissent ()
Concur in part; dissent in
Part () (SEE ATTACHMENT)